

IN THE DRAWINGS:

Attached is a Submission of Replacement Drawing Sheets including a change to each of Figs. 1-4. These Replacement Drawing Sheets, which include all of Figs. 1-9 in this application, replace the previously-filed drawing sheets. In these Replacement Drawing Sheets, Figs. 1-4 have been amended to include the legend "PRIOR ART" in response to the objection to the drawings in the Office Action.

REMARKS

Summary of the Office Action

The drawings stand objected to because Figs. 1-4 should allegedly each be designated by a legend such as –Prior Art–.

The title of the invention is allegedly not descriptive. A new title is required.

Claims 1 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takagi et al. (U.S. Patent No. 4,519,064) (hereinafter “Takagi”).

Claims 2-8 and 10-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takagi.

Summary of the Response to the Office Action

Applicants have amended the title in accordance with the Office Action’s requirement for a new title. Applicants have canceled claims 10 and 11 without prejudice or disclaimer.

Applicants have also amended independent claims 1 and 9 to differently describe embodiments of the disclosure of the instant application’s specification. Accordingly, claims 1-9 and 12-17 remain pending for consideration. A Submission of Replacement Drawing Sheets is attached including a change to each of Figs. 1-4.

Objections to the Drawings

The drawings are objected to because Figs. 1-4 should allegedly each be designed by a legend such as “Prior Art”. In the Submission of Replacement Drawing Sheets filed concurrently herewith, Applicants have amended the drawings by labeling Figs. 1-4 as “Prior

Art". Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

Objection to the Title

The title of the invention is allegedly not descriptive. A new title is required. Applicants have amended the title in accordance with the Office Action's requirement for a new title by incorporating the Examiner's helpful suggestion at page 3 of the Office Action. Accordingly, Applicants respectfully request that the requirement for a new title be withdrawn.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Takagi. Claims 2-8 and 10-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takagi. Applicants have canceled claims 10 and 11 without prejudice or disclaimer, rendering the rejection of these claims moot. Applicants have also amended independent claims 1 and 9 to differently describe embodiments of the disclosure of the instant application's specification. To the extent that these rejections might be deemed to apply to the claims as newly-amended, they are respectfully traversed for at least the following reasons.

The optical information recording medium described in newly-amended independent claim 1 holds information by pits each of which is reentrant as viewed from the entrance side of a reading laser beam. In other words, the reflective layer, on which a reading laser for playback information is reflected, has reentrants corresponding to the cavities on the recording surface.

On the other hand, Applicants respectfully submit that Takagi discloses an optical recording medium of a removing type. The removing type is explained by Takagi in that a recording is made in such a manner that a record layer on a reflective layer is vaporized or molten away by the heat energy of light or laser beam incident thereon. See col. 1, lines 8-12. Applicants respectfully submit that the information pits for recording information is formed by partly removing a recording layer made of an absorptive material using light or a laser, so that the information pit is a cavity which is a reentrant as viewed from the entrance side of the recording laser beam. It seems to Applicants that the reflective layer formed under the recording layer must have a uniform reflectivity though the disc and the reflective layer must not have any reentrants. It is therefore apparent to Applicants that Takagi does not disclose, nor even suggest, such an arrangement in which a reflective layer has reentrants respectively corresponding to cavities on a recording surface, as described in newly-amended independent claim 1. Similar arguments as set forth above also apply to newly-amended independent claim 9.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. §§ 102(b) and 103(a) should be withdrawn because Takagi does not teach or suggest each feature of independent claims 1 and 9, as amended. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Similarly, MPEP § 2143.03 instructs that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Furthermore, Applicants respectfully assert that the dependent claims are allowable at least because of their dependence from newly-amended claim 1 or 9, and the reasons set forth above. In the Office Action, the Examiner makes various allegations of various claimed features being "old and well known." Applicants do not concede to such allegations, but instead refer to the foregoing arguments regarding particular distinctions between the claims of the instant application and the applied reference.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER BIDDLE & REATH LLP



By:

Paul A. Fournier
Reg. No. 41,023

Dated: July 17, 2006

Customer No. 055694
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209
Tel.: (202) 842-8800
Fax: (202) 842-8465